

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE:	)	
	)	CASE NO. 17 B 32358
Mcarthur Brooks,	)	HON. TIMOTHY A. BARNES
	)	CHAPTER 13
DEBTOR.	)	

**NOTICE OF MOTION**

To: Marilyn O Marshall, 224 South Michigan Ste 800, Chicago, IL 60604;

See Attached Service List

Please take notice that on June 25, 2020, at 9:30 A.M., I will appear before the HONORABLE Timothy A. Barnes or before any judge sitting in in that judge's place and present the attached Motion to Vacate Dismissal, a copy of which is attached.

This motion will be presented and heard telephonically. No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must set up and use an account with Court Solutions, LLC. You can set up an account at [www.CourtSolutions.com](http://www.CourtSolutions.com) or by calling Court Solutions at (917) 746-7476.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that he transmitted a copy of this notice and the attached motion to the above-named creditor and also to the attached service list via regular U.S. Mail with postage prepaid from the mailbox located at 20 S. Clark Street, Chicago, IL 60603 on June 17, 2020.

Respectfully Submitted,

/s/ Alexander Nohr  
Attorney for Debtor  
The Semrad Law Firm, LLC  
20 S. Clark Street, 28<sup>th</sup> Floor  
Chicago, IL 60603  
(312) 913-0625

Label Matrix for local noticing

0752-1

Case 17-32358

Northern District of Illinois

Eastern Division

Wed Jun 17 11:07:10 CDT 2020

City Of Chicago Department of Finance

C/O Arnold Scott Harris P.C.

111 W Jackson Blvd Suite 600

Chicago, IL 60604-3517

U.S. Bankruptcy Court

Eastern Division

219 S Dearborn

7th Floor

Chicago, IL 60604-1702

City of Chicago - Parking and red Light Tick

121 N. LaSalle Street

Chicago, IL 60602-1202

Asset Acceptance

POB 1630

WARREN, MI 48090-1630

ECMC

PO BOX 16408

ST. PAUL, MN 55116-0408

ENHANCED RECOVERY CO L

8014 BAYBERRY RD

JACKSONVILLE, FL 32256-7412

I C SYSTEM INC

PO BOX 64378

SAINT PAUL, MN 55164-0378

Illinois Child Support

PO Box 19405

Illinois Dept of Healthcare and Family S  
Springfield, IL 62794-9405

Mosley, Erica

1219 E 72nd St

3rd Floor

Chicago, IL 60619-1311

PEOPLES ENGY

200 EAST RANDOLPH

CHICAGO, IL 60601-6302

PEOPLES GAS LIGHT &amp; COKE COMPANY

200 EAST RANDOLPH STREET

CHICAGO, ILLINOIS 60601-6433

United States Department of Education Claims

2401 International Lane

c/o Great Lakes Educational Loan Service

Madison, WI 53704-3121

West Loop Smile

955 West Monroe Street

Chicago, IL 60607-3689

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1219 E 72nd

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Patrick S Layng

Office of the U.S. Trustee, Region 11

219 S Dearborn St

Room 873

Chicago, IL 60604-2027

Rodion Leshinsky

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Yisroel Y Moskovits

The Semrad Law Firm, LLC

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End of Label Matrix

Mailable recipients 19

Bypassed recipients 0

Total 19

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
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**MOTION TO VACATE ORDER DISMISSING CASE**

NOW COMES the Debtor, Mcarthur Brooks, by and through Debtor's attorneys, The Semrad Law Firm, LLC, and hereby moves this Honorable Court to vacate the Order Granting Trustee's Motion to Dismiss Under F.R.Civ.P. 60(b). Debtor states the following:

1. That on October 30, 2017, Debtor filed the above captioned voluntary petition for relief under Chapter 13 of the United States Bankruptcy Code.
2. That this Honorable Court confirmed this case on January 25, 2018.
3. That this Court has jurisdiction over this proceeding pursuant to 28 U.S.C §§1334 & 157.  
This is a core proceeding pursuant to 28 U.S.C. §157.
4. That on April 23, 2020, this Honorable Court entered an Order Granting the Chapter 13 Trustee's Motion to Dismiss, at docket entry number 43, for Failure to Make Plan Payments.
5. Under F.R.Civ.P. 60(b), the court may relieve a party from final judgement if there is newly discovered evidence that, with reasonable diligence, could not have been discovered in time.
6. On May 7, 2020, Debtor provided certified funds in the amount of \$550.00 directly to counsel's office, on the 14<sup>th</sup> day after dismissal.
7. That on May 7, 2020, Debtor's counsel had recently opened their office in an extremely limited capacity as a result of the Covid-19 pandemic.

8. That the only staff working on May 7, 2020, was the front desk receptionist. The staff member who handled Debtor's money order was without knowledge of proper protocol or a surrounding support staff around to ask what the proper protocol was for payments dropped off for previously dismissed cases.
9. That in addition, due to social distancing measures, Debtor was unable to get a clear message across to the front desk staff that the mentioned payment was to vacate the case dismissal.
10. As a result, the funds were inadvertently treated as a regular plan payment by counsel's support staff. Given the error, counsel was not notified that the payment was provided within 14 days of dismissal to file a Motion to Vacate Dismissal. Only upon a subsequent review of the case did counsel uncover the payment. As a result, due to excusable neglect, Debtor's counsel failed to file a Motion to Vacate Dismissal under Rule 60(b).
11. That in the recent past, counsel for Debtor has stressed to his office staff the proper protocol for payments to vacate dismissal and the need to give immediate notice with high attention to get the motion to vacate dismissal on file.
12. That in the situation at hand, with the Covid-19 offices safety measures in place and with an extremely limited staff, Debtor's counsel failed to file the motion to vacate dismissal within the 14 day period after dismissal.
13. Debtor is now in a position to move forward with the Chapter 13 case.
14. Debtor respectfully requests this Honorable Court to vacate the Order Granting Motion to Dismiss for Failure to Make Plan Payments entered on April 23, 2020, at docket entry number 43 Under F.R.Civ.P. 60(b).
15. Debtor is in a position to proceed with the Chapter 13 Plan of reorganization.

16. Debtor has filed the current case in good faith and intends on completing the Chapter 13 Plan.

WHEREFORE, Mcarthur Brooks, Debtor, prays this Honorable Court to enter an Order Vacating the Order Granting Trustee's Motion to Dismiss for Failure to Make Plan Payments, at docket entry number 43 Under F.R.Civ.P. 60(b), and for such other and further relief as this Court deems fair and equitable.

Respectfully Submitted,

/s/ Alexander Nohr  
Attorney for Debtor  
The Semrad Law Firm, LLC  
20 S. Clark Street, 28<sup>th</sup> Floor  
Chicago, IL 60603  
(312) 913-0625